

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1260 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

DIVISIONAL CONTROLLER

Versus

PARBAT PANCHABHAI PARMAR

Appearance:

MR HC RAVAL for Petitioner

MR PM THAKKAR for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 07/03/2000

ORAL JUDGEMENT

Learned advocate Mr.Raval is appearing for the petitioner and the learned advocate Mr. Pahwa is appearing for Mr. Thakkar for the respondent workman. The facts leading to the filing of this petition, in brief, are that the respondent was working as a driver at

Rajkot Depot. The allegations against the respondent were to the effect that on 12.4.1974 between 10.25 to 10.30 in the morning, the respondent had behaved in disorderly manner and has misbehaved with his superior officers. At that time, the witnesses were also present. For the said misconduct, the respondent was chargesheeted. The departmental inquiry was, thereafter, initiated against the respondent in which the respondent was given sufficient opportunity to defend himself and after the end of the departmental inquiry, the respondent was found guilty and as such, was dismissed from service vide order dated 19.1.1974 against which the respondent had preferred the first departmental appeal before the appellate authority which too was dismissed. Thereafter, the respondent preferred second departmental appeal which was considered sympathetically by the second appellate authority and the order of dismissal was set aside and the respondent was ordered to be reinstated in service but without back wages and with continuity of service. The respondent was ordered to be reinstated in service on the minimum of the pay scale. Thereafter, the respondent raised industrial dispute by filing Reference No. 349 of 1981 before the Industrial Tribunal, Rajkot. The Tribunal, under its judgment and award dated 21.7.1987, ordered that two increment of the respondent workman be stopped ordered that the difference pursuant to these directions be paid to the respondent workman. Against the said award passed by the Tribunal, the petitioner has preferred this petition before this Court under Article 227 of the Constitution of India.

This Court, while admitting this petition, has not granted any interim relief. However, at the request of the learned counsel for the petitioner, time to comply with the award was granted and the compliance of the award was made subject to the final decision that may be taken in this petition. Thus, no interim relief was granted while admitting this petition.

I have heard the learned advocates appearing for the parties. I have also perused the impugned award and the papers brought on record. I have also considered the reasons given by the tribunal in support of its conclusion. The Tribunal has applied its mind and has considered the gravity of misconduct and the working condition of the driver and has observed that the same would require some sympathetic consideration. The another aspect which should be taken into consideration is the fact that while admitting this petition, no interim stay was granted by this court. Therefore, the workman must have been paid arrears of difference of

salary as a result thereof.

In view of the above facts and circumstances, I am of the opinion that the tribunal has rightly come to the conclusion and has rightly exercised the powers and no jurisdictional error has been committed by the tribunal warranting interference of this Court. I am, therefore, of the opinion that this petition is required to be dismissed. Same is accordingly dismissed. Rule is discharged. There shall be no order as to costs.

7.3.2000. (H.K.Rathod,J.)

Vyas